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GENERAL COUNSEL'S OPINION NUMBER 55-25, DATED 19 JULY 1955

Except in possible emergency situations there is no authority for providing quarters for dependents at any place other than the employee's permanent duty station in a foreign country.

TO THE DIRECTOR OF PERSONNEL

1. The problem as presented by your memorandum of 15 June 1955 and amplified in discussion with the Chief and Deputy Chief, FE, is to determine whether there is any legal and proper way in which, when Agency employees are assigned to [] their dependents can be transported to [] and there furnished quarters on a par with dependents of other Agency personnel who are assigned to []. Discussion with FE, [] indicates that this query arises from the attempt to find a solution to the problem arising from the following factual situation.

[]

[]

3. Agency policy with respect to the furnishing of quarters to personnel assigned to foreign areas is detailed in [] 4 April 1954.

[] and upon the general policy expressed by the Congress in the Act of 26 June 1930 (5 USCA 118a) that quarters might be furnished without cost to government employees having permanent stations in a foreign country. (Although that Act does not by its terms include the Agency, 27 Comp. Gen. 396, 26 January 1948, held language similar to that in PL 110 "sufficient to make current appropriation available for furnishing quarters to employees".)

4. A reading of the cited regulation indicates an expectation in its provisions that employees and their dependents will be residing together, an expectation probably justified in the usual case. There

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is neither a grant nor a denial of the specific authority to quarter dependents alone when the employee falls within the purview of the regulation. We can look then only to the general body of legislation and Governmental policy for guidance.

5. The historical development of additional compensation for civilian employees of the Government assigned abroad, whether in terms of special allowances or (as with quarters) in kind, has been that of gradually expanded privileges. Under such circumstances the grants of privilege must be strictly construed and, in practice, they have been. For corroboration one need only examine, e.g., the "qualifying" rules for dependents for whom travel or quarters privileges are sought. Through the legislation and the administrative determinations runs the principle of the "household", a group of people who go with the employee, but who have, for this purpose, no separate legal entitlements. Although unforeseen situations, such as the temporary detail of the employee from his duty station to another, or the emergency evacuation of dependents because of dangerous conditions arising in the area of the employee's duty station, may result in the temporary provision of quarters for dependents separate from the employee, we can find no sanction in legislation nor in the practice of other agencies for the planned provision of quarters for dependents at any place other than the employee's permanent duty station.

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7. The factual pivot upon which this case turns is simply

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change their minds. The disinclination to be separated from dependents is a fairly widespread emotion, and all Government agencies are faced with problems resulting from its prevalence. In itself, today, all U. S. Government agencies (other than the Department of State) must operate, and are operating, despite this obstacle.

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Granting the special qualifications required for Agency tasks, this factor alone is not sufficient ground for authorizing what would otherwise be improper. Not unless and until all reasonable alternatives are exhausted and found ineffective, and our functioning in [] is seriously in danger of impairment, would a situation exist warranting the exercise of the Director's special powers for resolution -- and even then it is not certain that the proper resolution would be that proposed.

8. The concept of the Career Staff seems designed to meet the very problem here presented; its members "have the obligation to serve anywhere and at any time and for any kind of duty as determined by the needs of the Organization" [] its application would seem to fall within the category of "reasonable alternatives".

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